



DEPARTMENT OF PUBLIC SAFETY

118 W. CAPITOL
PIERRE, SOUTH DAKOTA 57501-2036

Driver Licensing (605) 773-6883
E-Mail Address: DPSInfo@state.sd.us
Internet Address:
[HTTP://www.state.sd.us/dps/dl](http://www.state.sd.us/dps/dl)

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INTRODUCTION

This letter provides comments in response to the Final Rule, as published in the May 5, 2003 Federal Register (page 23852), by the Department of Homeland Security, Transportation Security Administration pertaining to Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Drivers License, and the Interim Final Rule, published by the Department of Transportation's Federal Motor Carrier Administration, on the same date (page 23844) pertaining to Limitations on the Issuance of Commercial Driver's Licenses with a Hazardous Materials Endorsement.

COMMENTS

- 1) The TSA and FMCSA rules establish an aggressive mandatory implementation schedule that will be difficult to attain at this time for various reasons.

The Driver Licensing database does not include the new information which would be required for the background threat assessment such as the alien registration number, citizenship data, etc. CDLIS must be changed to enable communication between TSA and State agencies. For the above reasons we must undergo major systems modifications in order to implement TSA's interim final rule by November 3, 2003. These software changes will be difficult to make since TSA has not yet established requirements for the system. It takes a considerable amount of time for all states to program and complete structured testing for the changes that will be needed to CDLIS. It is difficult to make software changes until TSA publishes the final rule, adding details which may not be released until later this fall.

Once software and procedures are in place, drivers must be informed that new procedures are in effect. Sending out notification to drivers before the entire system is reprogrammed, and methods and procedures have been finalized (by Jurisdictions, TSA and FMCSA) will only lead to further confusion for the driver.

States need ample time to reprogram computer systems and finalize procedures. None of this can be done until we receive details from TSA on how the background checks will be conducted. For these reasons, South Dakota requests that the implementation date of TSA's final rule be moved to a date in the future to allow TSA and FMCSA time to develop specifications and procedures, and consequently allow the states the time to come into compliance with the specifications and procedures.

- 2) **Process of Collecting, Submitting Fingerprints** - The interim rule indicates that the fingerprints will be forwarded to the FBI. However, on the conference call that was organized by the American Association of Motor Vehicle Administrators we heard that the prints were to go to TSA directly. South Dakota requests that the prints be allowed to be sent directly to the FBI. This process is already in place in South Dakota for other types of background checks that require the collection and submission of fingerprint checks.

The most cost-effective way for South Dakota to collect fingerprints is to have the driver's fingerprints collected by a law enforcement agency. Local law enforcement is thoroughly trained and experienced on collecting fingerprints and are much more likely to collect a readable print which would result in less sets of prints being rejected.

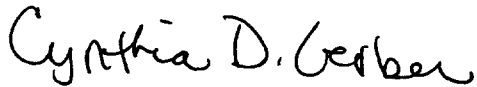
- 3) **Expiration Period:** The interim final rule says States must adopt, at minimum, a 5-year renewal cycle for the hazardous materials endorsement. South Dakota issues a 5-year driver license that expires on the driver's birthday. A driver may renew this license, and therefore all endorsements on the license, up to 6 months before the expiration date. In order to reduce office traffic, reduce resource requirements, and provide better customer service, South Dakota requests the authority to have the hazardous materials endorsement expiration date coincide with the CDL license expiration date. This could conceivably result in the endorsement being valid for a maximum of 5 years and six months in South Dakota. South Dakota licenses have only one expiration date on the license. It becomes confusing for all involved if we begin adding multiple expiration dates to one driver license.
- 4) **TSA Promulgate Standard Form:** TSA or FMCSA should develop a model hazardous materials endorsement application and distribute it to all jurisdictions as soon as possible. If a model application is not developed, TSA will be faced with 51 or more differently formatted submissions from the jurisdictions. If the process is to be completed electronically, standards need to be established such as how data is to be sent. Whether to send last name and then first name, or first name and then last name, is one example.

Establishing standard formats at the start will enable the jurisdictions to develop forms/systems, and also enable TSA/FMCSA to implement changes to the standard format as procedures are refined.

South Dakota requests the TSA or FMCSA to develop a national hazardous materials endorsement application format and send it to all jurisdictions as soon as possible.

Thank you for providing South Dakota the opportunity to comment on these rules.

Sincerely,

A handwritten signature in black ink that reads "Cynthia D. Gerber". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

Cynthia D. Gerber, Director
SD Driver Licensing Program

cc: AAMVA's Director of Government Affairs
4301 Wilson Blvd, Suite 400
Arlington, VA 22203